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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/801,210	03/16/2004	Bryan K. Avery	1025-005	2026
27820	7590	11/17/2006	EXAMINER	
WITHROW & TERRANOVA, P.L.L.C.			KING, ANITA M	
P.O. BOX 1287			ART UNIT	
CARY, NC 27512			PAPER NUMBER	

3632

DATE MAILED: 11/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/801,210

Applicant(s)

AVERY, BRYAN K.

Examiner

Anita M. King

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 32-34 and 42-64 is/are pending in the application.
- 4a) Of the above claim(s) 50-55 and 58-61 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 32-34, 42-49, 56 and 62-64 is/are rejected.
- 7) ☒ Claim(s) 57 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>6/30/04</u> . | 6) <input type="checkbox"/> Other: _____ |

This is the third office action for application number 10/801,210, Meter Stand, filed on March 16, 2004.

Election/Restrictions

Claims 50-55 and 58-61 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on January 13, 2006.

Drawings

The drawings are objected to because reference number "38" in Fig. 8 appears to be incorrect and should be --38'--. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and

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informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The disclosure is objected to because of the following informalities: on page 5, paragraph 28, line 9, "orifice" should be --orifice--; on page 6, paragraph 32, line 3, "24" appears to be incorrect and should be --26--; and on page 10, paragraph 47 line 4, "15" appears to be incorrect and should be --14--.

Appropriate correction is required.

Cancellation of Claims

Claims 1-31 and 35-41 have been canceled per applicant's request.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 32 and 34 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 2,876,359 to Plymale. Plymale disclose a stand capable of holding a meter, comprising: a magnetic base member (11 & 12) having a first socket attachment (13); an arm assembly (17 & 27) having a second socket attachment (18) at a first end of the arm

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assembly adapted to detachably connect the arm assembly to the first socket attachment of the base member; an attachment assembly (20) adapted to hold an object at a second end of the arm assembly; and wherein the first socket attachment is a female socket and the second socket attachment is a male socket attachment.

Claims 32 and 34 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 3,377,117 to Biscow. Biscow disclose a stand capable of holding a meter, comprising: a magnetic base member (53, 70) having a first socket attachment (36); an arm assembly (20) having a second socket attachment (34) at a first end of the arm assembly adapted to detachably connect the arm assembly to the first socket attachment of the base member; an attachment assembly (26) adapted to hold an object at a second end of the arm assembly; and wherein the first socket attachment is a female socket and the second socket attachment is a male socket attachment.

Claims 42, 62, and 63 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 3,380,698 to Goldberg et al., hereinafter, Goldberg. Goldberg discloses a stand capable of holding a meter, comprising: an arm assembly including a meter attachment assembly having a first slotted member (31) comprising a first portion (33) having a first slot and a second portion (36) having a first perpendicular tab, a second slotted member (32) comprising a first portion (34) having a first slot and a second portion (37) having a second perpendicular tab, a third slotted member (12) comprising a first portion (25, 26) having a third slot and a second portion (29) having a third perpendicular tab, a fastener (14) for securing the first, second and third slotted members together comprising a bolt passing through the first, second and third slots of the slotted members, wherein the slotted

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members are free to slide about the bolt when the fastener is unlocked and the slotted members form a substantially rigid structure when the fastener is locked, the first slotted member and the second slotted member arranged such that the first slot overlaps the second slot and the first perpendicular tab is located horizontally across the second perpendicular tab, and the third slotted member arranged such that the third slot overlaps the first and second slots and the third perpendicular tab is located on an axis perpendicular to the first and second perpendicular tabs; a first arm (8) having a first end and a second end, wherein the first end is coupled to the attachment assembly; wherein the first and second slots enable adjustment of a width of the attachment assembly and the third slot enables an adjustable height of the attachment assembly when the fastener is unlocked; and wherein the fastener further comprises a wing nut secured to the bolt at a back side of the slotted members such that the slotted members are free to slide about the bolt when the wing nut is loosened and the slotted members form a substantially rigid structure when the wing nut is tightened.

Claims 42 and 46 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,060,260 to O'Connell. O'Connell discloses a stand capable of holding a meter, comprising: an arm assembly including a meter attachment assembly having a first slotted member (14) comprising a first portion (14a) having a first slot (14c) and a second portion (14b) having a first perpendicular tab, a second slotted member (16) comprising a first portion (16a) having a first slot (16c) and a second portion (16b) having a second perpendicular tab, a third slotted member (18) comprising a first portion having a third slot (18a or 18b) and a second portion having a third perpendicular tab (18c or 18d), a fastener

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(30 or 32) for securing the first, second and third slotted members together comprising a bolt passing through the first, second and third slots of the slotted members, wherein the slotted members are free to slide about the bolt when the fastener is unlocked and the slotted members form a substantially rigid structure when the fastener is locked, the first slotted member and the second slotted member arranged such that the first slot overlaps the second slot and the first perpendicular tab is located horizontally across the second perpendicular tab, and the third slotted member arranged such that the third slot overlaps the first and second slots and the third perpendicular tab is located on an axis perpendicular to the first and second perpendicular tabs; a first arm (top portion of element 12) having a first end and a second end, wherein the first end is coupled to the attachment assembly; and wherein the arm assembly further comprises a second arm (bottom portion of element 12) having a first end and a second end, wherein the first end is hingedly connected to the second end of the first arm, and a first fastener coupled to the first end of the second arm and the second end of the first arm such that the second arm is free hingedly rotate with respect to the first arm when the first fastener is unlocked, and the first arm and the second arm form a substantially rigid structure.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Plymale. Plymale discloses the claimed invention except for the limitation of the first socket attachment being a male socket attachment and the second socket attachment being a female socket attachment. It would have been obvious to one having ordinary skill in the art the time the invention was made to have modified the socket attachments in Plymale to have the first socket being a male attachment and the second socket being a female attachment since such a modification merely involves a reversal of parts that would not have produced any unexpected results and since the applicant discloses the reversal in claim 34.

Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Biscow. Biscow discloses the claimed invention except for the limitation of the first socket attachment being a male socket attachment and the second socket attachment being a female socket attachment. It would have been obvious to one having ordinary skill in the art the time the invention was made to have modified the socket attachments in Biscow to have the first socket being a male attachment and the second socket being a female attachment since such a modification merely involves a reversal of parts that would not have produced any unexpected results and since the applicant discloses the reversal in claim 34.

Claims 43-45, 56, and 64 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Connell in view of Plymale. O'Connell discloses the claimed invention except for the limitations of a base member having a first socket attachment, the arm assembly having a second arm hingedly attached to the first arm and the base member being magnetic. Plymale teaches a magnetic base member (11,12) having a first socket attachment (13) being a female socket attachment, an arm assembly having a first arm (27) and a second

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arm (17) having a first end and a second end, wherein the first end is hingedly connected to the second end of the first arm via a connecting means(40) and the second end has a second socket attachment (18) detachably connected to the first socket attachment of the base member, wherein the first socket attachment is a female socket attachment and the second socket attachment is a male socket attachment, and wherein the second arm further comprises a ball joint coupling the second socket attachment to the second arm. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the base member in O'Connell to have included the base member as taught by Plymale for the purpose of providing an alternative, mechanically equivalent means for mounting the stand to a supporting structure. It would have been obvious to one having ordinary skill in the art the time the invention was made to have modified the socket attachments in Plymale to have the first socket being a male attachment and the second socket being a female attachment since such a modification merely involves a reversal of parts that would not have produced any unexpected results.

Claims 47-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Connell. O'Connell further disclose that the first fastener is a bolt that passes through an orifice in each of the first and second arms of the arm assembly and a boss for receiving the fastener. O'Connell discloses the claimed invention except for the limitation a wing nut secured to the bolt. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the boss in O'Connell to have been a wing nut, since the boss in O'Connell serves as a means for locking and unlocking the first arm in relation to the second arm and the wing nut would have been an alternative, mechanically

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equivalent element for meeting the means for locking and unlocking the first arm in relation to the second arm.

Allowable Subject Matter

Claim 57 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent 959,735 to Hancock

U.S. Patent 1,038,280 to Burnett

U.S. Patent 3,104,491 to Sparkman

U.S. Patent 3,964,612 to Skilliter, Jr. et al.

U.S. Patent 4,136,805 to Storms

U.S. Patent 4,508,307 to Morales

U.S. Patent 4,984,760 to Cohn et al.

U.S. Patent 5,109,411 to O'Connell

U.S. Patent 5,285,938 to Fauchald

U.S. Patent 5,457,745 to Wang

U.S. Patent 5,911,395 to Hussaini

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Hancock discloses a holder having first, second, and third slotted members slidably connected by a wing nut and bolt. Burnett discloses an adjustable book holder having a plurality of adjustable slotted members. Sparkman disclose an adjustable reading stand. Skilliter, Jr. et al. disclose an adjustable equipment support assembly. Storms discloses a holder for an electronic calculator. Morales discloses an adjustable book holder having a plurality of slotted members slidably connected via a bolt and nut. Cohn et al. disclose a holder for a pocket sized electronic appliance. Fauchald and Wang both disclose a holder for a mobile telephone. Hussaini discloses a universally adjustable mounting bracket having slotted members.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anita M. King whose telephone number is (571) 272-6817. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on (571) 272-6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Anita M. King
Primary Examiner
Art Unit 3632

November 2, 2006